
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Ad-Venture Media, Inc.)	File No. EB-02-CG-414
WQRK)	
Bedford, Indiana)	NAL/Acct. No. 200332320002
)	
)	FRN: 0002 882 439

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: January 23, 2003

By the District Director, Chicago Office, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Ad-Venture Media, Inc. (“Ad-Venture”) has apparently violated Section 17.50 of the Commission’s Rules (the “Rules”).¹ This violation occurred as a result of Ad-Venture’s failure to repaint the antenna structure as often as necessary to maintain good visibility. We conclude that Ad-Venture is apparently liable for a forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On June 25, 2002, an agent from the Commission’s Chicago Office inspected the antenna structure of Radio Station WQRK. At the time of the inspection, the paint on the antenna structure was badly faded and rust was visible through the paint.

3. On July 2, 2002, the Chicago Office issued a Notice of Violation (“NOV”) to Ad-Venture for violation of FCC Rule Section 17.50.

4. On July 15, 2002, the Chicago Office received a response to the NOV from Ad-Venture. In their reply, Ad-Venture stated that had hired a contractor to paint WQRK’s antenna structure, with work commencing on July 13, 2002.

III. DISCUSSION

5. Section 17.50 specifies antenna structures shall be cleaned or repainted as often as necessary to maintain good visibility. At the time of the inspection, WQRK’s antenna structure’s paint was severely faded and the bands of paint were not distinguishable, resulting in poor visibility of the structure.

¹ 47 C.F.R. § 17.50.

6. The Commission assesses monetary forfeitures pursuant to Section 503(b) of the Communications Act of 1934, *as amended*, (the “Act”)² as implemented in Section 1.80 of the Rules.³ A forfeiture may be assessed against a person who the Commission finds to have willfully⁴ or repeatedly⁵ failed to comply with the provisions of the Act or the Rules. Forfeiture amounts are decided in accordance with Section 503(b)(2) of the Act and the Commission’s forfeiture guidelines in Section 1.80(b)(4) of the Rules.

7. Based on the evidence before us, we find that Ad-Venture willfully and repeatedly violated Section 17.50 of the Rules by failing to repaint the antenna structure as needed. Pursuant to *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), recon. denied, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”), the base forfeiture amount for failure to comply with prescribed marking is ten thousand dollars. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 (“ACT”), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ After applying the *Forfeiture Policy Statement* and the statutory factors to the instant case, we believe a \$10,000 forfeiture is warranted.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ Ad-Venture Media, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for failure to repaint the antenna structure as needed, in violation of Section 17.50.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Ad-Venture Media, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to

² 47 U.S.C. § 503(b).

³ 47 C.F.R. § 1.80.

⁴ Section 312(f)(1), which also applies to Section 503(b), provides: [t]he term “willful”, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provisions of the Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States. See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁵ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term “repeated”, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁶ 47 U.S.C. § 503(b)(2)(D); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01.

⁷ 47 C.F.R. §§ 0.111, and 0.311.

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the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200332320002 and FRN 0002 8824 39.

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20402 and MUST INCLUDE THE NAL/Acct. No. 200332320002 and FRN 0002 8824 39.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Ad-Venture Media, Inc., 424 Heltonville Road, Bedford, Indiana 47421.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt
District Director
Chicago Office

Attachment A: Condensed List of Small Entities

⁸ See 47 C.F.R. § 1.1914.